

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

DYLAN ARMAN SAAVEDRA,

Plaintiff,

vs.

CIV 20-0528 KBM

ANDREW SAUL,
Commissioner of Social
Security Administration,

Defendant.

ORDER GRANTING UNOPPOSED MOTION TO REMAND

Defendant, the Commissioner of Social Security (Commissioner), by and through his counsel, has filed an unopposed motion with this Court, pursuant to sentence four of 42 U.S.C. § 405(g), to enter a judgment with an order of reversal with remand of the case for further administrative proceedings. *Doc. 28.* After reviewing Plaintiff's case, the Commissioner submits that remand is warranted. *Id.* Plaintiff does not oppose the requested relief. *Id.*

To remand under sentence four of 42 U.S.C. § 405(g), however, the Court must review the record and determine whether the ALJ's decision is supported by substantial evidence, or whether the ALJ correctly applied the law relevant to the disability claim. *Nguyen v. Shalala*, 43 F.3d 1400, 1403 (10th Cir. 1994). If the Court's answer to either question is no, reversal is appropriate. *Id.*

This Court held a hearing on July 6, 2021, on Defendant's unopposed motion to remand. *Docs. 29; 30.* At the hearing, counsel for both parties presented their reasons for requesting remand. Having heard the parties' positions and having reviewed the Plaintiff's Motion (*Doc. 24*) and administrative record (*Doc. 19*), in light of the issues identified by the parties, the Court finds that the ALJ's decision is not supported by substantial evidence and that the ALJ did not apply the correct legal standards in determining that Plaintiff is not disabled.

Therefore, pursuant to the power of this Court to enter a judgment affirming, modifying, or reversing the Commissioner's decision with remand in Social Security actions under sentence four of 42 U.S.C. § 405(g), and in light of the Commissioner's request for remand of this action for further proceedings, this Court hereby REVERSES the Commissioner's decision under sentence four of 42 U.S.C. § 405(g) with a REMAND to the Commissioner for further administrative proceedings. *See Shalala v. Schaefer*, 509 U.S. 292 (1993). Upon remand, the agency will reconsider Plaintiff's claim. A Final Order pursuant to Federal Rule of Civil Procedure 58 will enter concurrently herewith.

Dated this 6th day of July, 2021.



HONORABLE KAREN B. MOLZEN
UNITED STATES MAGISTRATE JUDGE
Proceeding by Consent